

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

CHILE RIVER INC., et al.,

Plaintiffs/Counter-Defendants,

v.

Civ. Nos. 16-866 KG/GJF (lead case)
16-867 KG/GJF (consolidated)
16-868 KG/GJF (consolidated)

LOCKHART SEEDS, INC.,

Defendant/Counter-Plaintiff.

ORDER ON MOTION TO DISMISS PURSUANT TO RULE 12(b)(7) (Doc. 20)

THIS MATTER is before the Court on Defendant's Motion to Dismiss Pursuant to Rule 12(b)(7) (Motion to Dismiss) filed September 28, 2016. (Doc. 20). Having reviewed the parties' submissions and the relevant law, heard the arguments of counsel at the September 28, 2017, hearing, and being otherwise fully advised, the Court FINDS:

1. That the Affidavit of Ian Lockhart attached to the Motion to Dismiss (Doc. 20) is accepted by the Court as relevant, admissible evidence as to paragraphs 1-5, supporting that Kamterter II, LLC is an indispensable party to this action. Further, paragraph 6 of the affidavit is opinion testimony that was not relied upon by the Court;

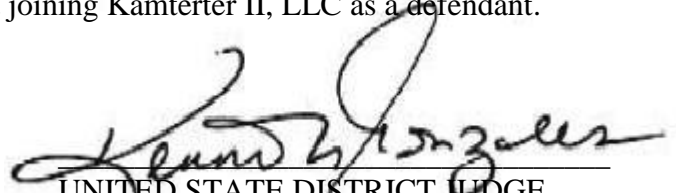
2. that Kamterter II, LLC is an indispensable party whose joinder is required and feasible, will not deprive the Court of jurisdiction and over whom the Court has personal jurisdiction pursuant to the New Mexico Long Arm Statute;

3. that with the joinder of Kamterter II, LLC that venue will remain proper; and

4. that it is in the interest of judicial economy to require the joinder of Kamterter II, LLC .

THEREFORE,

IT IS ORDERED that Defendant's Motion to Dismiss Pursuant to Rule 12(b)(7) (Doc. 20) is **GRANTED** in part and **DENIED** in part and that Plaintiffs shall have until October 27, 2017, at 5:00 pm to file an Amended Complaint joining Kamterter II, LLC as a defendant.


UNITED STATE DISTRICT JUDGE

SUBMITTED BY:

Western Agriculture, Resource and
Business Advocates, LLP

/s/ A. Blair Dunn

A. Blair Dunn, Esq.
Dori E. Richards, Esq.
400 Gold Ave SW, Ste 1000
Albuquerque, NM 87102
(505) 750-3060
abdunn@ablairdunn-esq.com
dorierichards@gmail.com

APPROVED BY:

ScottHulse, P.C.

Approved via email 9/29/2017

Casey S. Stevenson
11th Floor Chase Tower
El Paso, TX 79901
(915) 533-2493
Casey.stevenson@scotthulse.com